

Compliance Guide for the Concentrated Aquatic Animal Production Point Source Category

Appendix C: Frequently Asked Questions

Full document available at
<http://www.epa.gov/waterscience/guide/aquaculture>

Engineering and Analysis Division
Office of Science and Technology
U.S. Environmental Protection Agency

Frequently Asked Questions

What operations are covered under the CAAP ELGs?

The CAAP ELGs apply to direct discharges of wastewater from existing and new facilities in these two categories:

- Facilities that produce at least 100,000 pounds a year in flow-through and recirculating systems that discharge wastewater at least 30 days a year (used primarily to raise trout, salmon, hybrid striped bass, and tilapia).
- Facilities that produce at least 100,000 pounds a year in net pens or submerged cage systems (used primarily to raise salmon).

What do the CAAP ELGs require?

The rule requires that all applicable facilities:

- Develop, maintain, and certify a Best Management Practice plan that describes how the facility will meet the requirements of the regulation.
- Prevent discharge of drugs and pesticides that have been spilled and minimize discharges of excess feed.
- Regularly maintain production and wastewater treatment systems.
- Keep records on numbers and weights of animals, amounts of feed, and frequency of cleaning, inspections, maintenance, and repairs.
- Train staff to prevent and respond to spills and to properly operate and maintain production and wastewater treatment systems.
- Report the use of experimental animal drugs or drugs that are not used in accordance with label requirements.
- Report failure of or damage to a containment system.

The rule requires flow through and recirculating discharge facilities to minimize the discharge of solids such as uneaten feed, settled solids, and animal carcasses.

The rule requires open water system facilities (e.g., net pens or cages in the ocean) to:

- Employ efficient feed management strategies to allow only the least possible uneaten feed to accumulate beneath the nets.
- Properly dispose of feed bags, packaging materials, waste rope, and netting.
- Limit as much as possible wastewater discharges resulting from the transport or harvest of the animals.
- Prevent the discharge of dead animals to waters of the U.S.

Additional information about these requirements is available from Chapters 6 and 7, and Chapters 9 through 15 of this guidance.

What operations are covered under the NPDES regulation?

EPA's existing NPDES regulations define when a hatchery, fish farm, or other facility is a CAAP facility and, therefore, a point source subject to the NPDES permit program. See 40 CFR 122.24. In defining CAAP facilities, the NPDES regulations distinguish between warm water and cold water species of fish and define a CAAP facility by, among other things, the size of the operation and frequency of discharge. A facility is a CAAP facility if it meets the criteria in 40 CFR 122, Appendix C (available in Appendix D of this guide) or if it is designated as a CAAP facility by the Director on a case-by-case basis.

Most facilities falling under the definition of CAAP are either flow-through, recirculating, or net pen systems. These systems discharge continuously or discharge 30 days or more per year as defined in 40 CFR part 122.24 and are subject to permitting depending on the production level at the facility. Most pond facilities do not require permits because ponds generally discharge fewer than 30 days per year and therefore generally are not CAAP facilities, unless designated by the Director.

In general¹, you will not be covered by the NPDES regulations if you are a facility that produces less than 9,090 harvest weight kilograms (approximately 20,000 pounds) per year of cold water species or if you feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding (40 CFR part 122, Appendix C). The NPDES regulations also do not apply if you are a facility that produces warm water species, using closed ponds that discharges only during periods of excess runoff or if you produce less than 45,454 harvest weight kilograms (about 100,000 pounds) per year of warm water species (40 CFR part 122, Appendix C).

Facilities meeting the NPDES definition of a CAAP will still be regulated by the NPDES permit program, even if they are not subject to the ELGs.

What is the difference between NPDES and ELGs for CAAPs?

Any facility can be designated as a CAAP (whether it meets the requirements of the NPDES regulations outright or whether the Director designates the facility as a CAAP facility) and be subject to NPDES permitting requirements.

However, if the ELG applies to the CAAP facility (i.e., recirculating, flow-through, or net pen systems that annually produce more than 100,000 pounds of aquatic animals) then the facility's NPDES permit will also contain ELGs requirements specific to the system types used to produce aquatic animals at that location.

¹ Unless the Director designates your facility as requiring an NPDES permit.

When do the ELGs take effect?

The ELGs requirements will apply during a facility's next permit cycle (i.e., when the facility's permit is renewed).

How does EPA define a facility?

A facility is defined as all contiguous property and equipment owned, operated, or leased, or under control of the same person or entity. Each system owned, operated, leased, or under the control of the same person or entity that is not contiguous can and should be treated as separate facilities; the production threshold used in determining if a facility is a CAAP should also be applied separately.

What is annual production?

EPA defines annual production for aquatic animal production facilities as what aquatic animals leave the facility on an annual basis. Check with your permitting authority to verify how they define production.

What if I have more than one type of system (i.e., recirculating and net pen) at my facility?

If you have more than one type of regulated system (flow-through, recirculating, or net pen) at your facility (and the total annual production at any one of the systems is 100,000 pounds or more), you must comply with the different requirements for each system type. For example, if you have a recirculating system and net pens at your facility, you will need to comply with the appropriate ELGs requirements for both recirculating systems and net pens. For more information about different system types and meeting the ELGs' production threshold, refer to Chapter 3.

If you have other system types in addition to those regulated by the ELGs, such as ponds or shellfish hatcheries, those system types are not regulated by the ELGs. For example, if your facility has recirculating systems and ponds, only the recirculating systems are regulated by the ELGs if they meet the production requirements. The requirements for your recirculating system will appear in your NPDES permit. The ELGs requirements will not apply to the ponds at your facility. However, you may need an NPDES permit if your ponds meet the definition of the cold water or warm water species category, where the ponds discharge at least 30 days per year (40 CFR part 122, Appendix C) or if your pond is part of a facility that has been designated a CAAP facility.

What systems are not regulated by the ELGs?

The ELGs regulations will not apply to you if you have systems other than flow-through, recirculating, or net pens, such as molluscan shellfish hatcheries or shrimp ponds. The regulations also do not apply to facilities whose combined annual production for their flow-

through, recirculating, and net pen systems is less than 100,000 pounds. Systems not covered by the CAAP ELGs include:

- Closed pond systems (may be covered by NPDES if it discharges more than 30 days per year or it is designated as a CAAP facility by the Director)
- Molluscan shellfish (including nurseries)
- Crawfish production
- Alligator production
- Aquaria
- Net pens rearing native species released after a growing period of no longer than 4 months to supplement commercial and sport fisheries

What part of my CAAP is regulated?

The CAAP regulation applies to the production areas of your facility, including:

- Areas where you might grow, maintain, or contain aquatic animals (e.g., raceways, tanks, or net pens).
- Areas where you might store raw materials (e.g., feed silos and storage areas designated for feed or drugs).
- Areas where you might contain wastes (e.g., sedimentation basins, quiescent zones, and settling ponds).
- Source water and wastewater conveyance systems (e.g., tailraces and headraces).

When do I have to get an NPDES permit?

Your permit application deadline depends on whether your operation is an existing CAAP facility, a new discharger, or a new source. Each category has a different deadline for applying for an NPDES permit. Read the descriptions in Chapter 4 of this guide to determine when you must apply for an NPDES permit.

What records do I have to keep?

Your NPDES permit will require you to keep certain records to show that you are complying with the terms of the permit. You must keep all the records on-site at your operation for 5 years and you must provide them to the permitting authority upon request. Refer to Chapter 12 for additional information about record-keeping.

How does EPA treat proprietary/confidential information?

Disclosure of confidential business information (CBI) is restricted by statute. Pursuant to EPA regulations at 40 CFR 2.203 and 2.211, EPA treats all information for which a claim of confidentiality is made as confidential unless and until it makes a determination to the contrary under 40 CFR 2.205. Facilities that want to protect certain proprietary information included in

their BMP plans should mark this information as CBI. Note that information from federal facilities and discharge information from all facilities cannot be claimed as CBI. Check with your permitting authority for process and eligibility information.

What monitoring do I have to perform under my NPDES permit?

The monitoring that your permitting authority will require as part of your permit will depend on the other conditions in your permit. If you are subject to ELGs, there are some associated monitoring requirements, which are routine inspections of production and wastewater treatment systems that are discussed in Chapters 5 and 11. In addition, if your permit includes water quality based numeric effluent limitations, you will be required to monitor to demonstrate compliance with those limitations. Your permitting authority may also require monitoring to characterize your discharge even when your permit does not include numeric effluent limitations. Look carefully at your permit, particularly the effluent limitations section, special conditions, and any specific monitoring requirements section, to determine what monitoring you have to perform.

How do I develop a BMP plan?

Your BMP plan should describe in detail how you will achieve the requirements of the CAAP ELGs. Chapter 8 of this guidance document describes what elements you should include in your BMP plan.

How do I certify my BMP plan?

Send a signed letter to your permitting authority, stating that you have developed a BMP plan. You will need to send a letter every time your permit is renewed. The BMP certification form should include your name and title, name of the facility, NPDES number, and date the BMP plan was developed. An example certification form that may be submitted to your permitting authority is available in Appendix F of this guidance document. Be sure to check with your permitting authority if you have any questions about certifying your BMP plan.

What do I do with my BMP plan, once it has been developed?

Once you have developed your BMP plan, keep a copy of the plan available in case your permitting authority requests a copy. You should also provide copies to employees so they can implement the BMPs.

Where can I find example forms to help me satisfy requirements of the CAAP ELGs (e.g., solids control) and that may be submitted to my permitting authority?

Appendices M through T contain examples forms for all requirements of the CAAP ELGs. The example forms are available from this document or online at <http://www.epa.gov/guide/aquaculture>.

How do I contact my permitting authority?

If you are unsure how to contact your permitting authority, Appendix A contains contact information by state.

How can I get copies of the rule or additional information?

You can get a copy of the final rule by contacting the Office of Water Resource center at 202-566-1729 or sending them an e-mail at center.water-resource@epa.gov. You can also write or call the National Service Center for Environmental Publications (NSCEP), U.S. EPA/NSCEP, P.O. Box 42419, Cincinnati, Ohio 45242-2419, (800) 490-9198, <http://www.epa.gov/ncepihom>. Finally, Appendix D of this document provides a copy of the federal regulations. You can get electronic copies of the preamble, rule, and major supporting documents at <http://www.epa.gov/guide/aquaculture> or in E-Docket at <http://www.epa.gov/edocket>. Once in the E-Docket system, select “search,” then key in the docket identification number (OW-2002-0026).

Frequently Asked Questions for Your Permitting Authority

The following are frequently asked questions that you may want to ask your permitting authority:

- Will additional requirements (e.g., state, local, TMDL), in addition to EPA’s regulations, be included in my NPDES permit? If so, what are they?
- What regulations for my state apply to my CAAP facility?
- How do I know if I am complying with all federal requirements that apply to point source discharges?
- How will I know if the Director designates my facility, which does not meet the requirements of the NPDES regulation or the CAAP ELGs, as a CAAP?
- If I discharge to a POTW and have an NPDES permit, what are the pretreatment requirements that I must meet?
- What forms do I need to fill out to apply for an NPDES permit or to renew my current NPDES permit? Where can I obtain these forms?
- Is my facility eligible for an existing general NPDES permit?
- When do I have to get an NPDES permit?
- What happens if I don’t submit my application by the deadline?
- What do I have to do when I renew my permit?
- Am I considered a new source or new discharger? I don’t understand the difference.
- What happens to my permit if I close my facility?
- What happens if I make significant changes (e.g., increase production level) at my operation?
- Will I need to perform monitoring?
- What information do I have to report to my permitting authority?